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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,410	01/10/2002	James R. Stolpmann	8266-0752	8926

7590 06/26/2003

Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
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EXAMINER

LUU, TUYET PHUONG PHAM

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/044,410	Applicant(s) STOLPMANN, JAMES R.	
	Examiner Teri P. Luu	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 12, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-39 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 39-41 been renumbered 37-39.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-8, 11-13, 15-20, 23 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollura in view of Hall et al.

Mollura discloses, in Fig. 8, a mattress comprising a non-puncture resistant cover having an interior surface and a core disposed adjacent the interior surface including a body defining a plurality of mounting locations, each mounting location includes an enclosure having a gas container disposed therein. The enclosures provide a substantially cylindrical space for receiving the respective containers. Mollura fails to teach the gas containers being self-sealing. However, Hall et al. discloses a flexible self-sealing sheeting comprising a flexible, puncturable sheet of cloth or polymeric material, a layer of seal-adhering, water-resistant polyurethane sealing material and an anti-tack barrier. Hall et al. discloses that the sheeting can be used to form self-sealing articles. Thus, it would have been within the knowledge of one skilled in the art to use the sheeting of Hall et al. to form the gas containers in order for the containers to be capable of resealing in the event of a puncture.

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As concerns claims 5 and 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the non-stretchable material as one of substantially non-stretchable fabric and substantially non-stretchable film and to provide a body of woven nylon twill, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

In reference to claims 15 and 27, each enclosure is affixed to an adjacent enclosure via the cell-separating panels (126, 127, 130, 133, 135).

4. Claims 9, 10, 14, 21, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollura in view of Hall et al. as applied to claim 1 above, and further in view of Steensen.

Mollura, as modified, discloses the claimed invention except for the body being formed of an upper layer and a lower layer connected at a plurality of seams, thereby forming substantially cylindrical spaces for receiving the plurality of containers. Steensen discloses a body comprising an upper layer and a lower layer connected at a plurality of seams thereby forming substantially cylindrical spaces for receiving a plurality of containers, see Fig. 7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the body as an upper layer connected to the lower layer by a plurality of seams so as to provide a body which requires less material and is easier to manufacture.

As concerns claims 14 and 24, Steensen discloses in the Prior Art that it is well known in the art to provide mattress having compartments or containers which are independently controllable. Thus, it would have been within the knowledge of one skilled in the art to provide the containers with separate control means so as to be able to individually control the pressure of each of the separate containers.

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5. Claims 28-33, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollura in view of Hall et al and U.S. Patent No. 6,453,490 to Cardinale.

Mollura, as modified by Hall et al., discloses the claimed invention except for a frame and side rails connected to the frame on which the mattress is supported. Cardinale discloses a bed comprising a frame and side rails connected to the frame. It is well known in the bedding art to support mattresses on frames. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the frame with side rails so as provide "guarding protection lengthwise of the bed."

6. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollura in view of Hall et al. and Cardinale as applied to claim 28 above, and further in view of Steensen.

Mollura, as modified, discloses the claimed invention except for the body being formed of an upper layer and a lower layer connected at a plurality of seams, thereby forming substantially cylindrical spaces for receiving the plurality of containers. Steensen discloses a body comprising an upper layer and a lower layer connected at a plurality of seams thereby forming substantially cylindrical spaces for receiving a plurality of containers, see Fig. 7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the body as an upper layer connected to the lower layer by a plurality of seams so as to provide a body which requires less material and is easier to manufacture.

As concerns claim 37, Steensen discloses in the Prior Art that it is well known in the art to provide mattress having compartments or containers which are independently controllable. Thus, it would have been within the knowledge of one skilled in the art to provide the containers with separate control means so as to be able to individually control the pressure of each of the separate containers.

Response to Arguments

7. Applicant's arguments filed May 12, 2003 have been fully considered but they are not persuasive.

Applicant argues that Mollura fails to disclose "the core further including a plurality of self-sealing gas containers respectively disposed within the plurality of enclosures."

Specifically, applicant argues that the straps 40, 41 are not enclosures and do not enclose air tubes 44-48. The examiner agrees. However, Mollura discloses, in Figure 8, a second embodiment in which the plurality of containers are disposed within a plurality of enclosures.

With respect to claim 13, applicant argues that the claim requires side rails and a minimum height requirement of the side rails. However, it should be noted that claim 1 recites a "mattress for a bed having a frame ... and side rails," The claim is directed to the subcombination of a mattress, the bed having a frame and side rails are not positively claimed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Teri Pham Luu** whose telephone number is **(703) 305-7421**. The examiner can be best reached Monday-Friday from 6:30 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Heather Shackelford**, can be reached at **(703) 308-2978**.

Submission of your response by facsimile transmission is encouraged. Technology Center 3600's facsimile number is **(703) 872-9326 (Before Final)**, **(703) 872-9327 (After Finals)** and **(703) 872-9325 (Customer Service)**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the
Patent and Trademark Office (Fax No. _____) on _____ (Date) _____

(Typed or printed name of person signing this certificate)

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be directed to **heather.shackelford@uspto.gov**.

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed expressed waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist at **(703) 308-2168**.



TERI PHAM LUU
PRIMARY EXAMINER

tpl
June 23, 2003